

REMARKS

Claims 1-6, 32, and 34 are pending and under consideration. No new matter is presented in this Amendment.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 1-6, 32, and 34 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nonomura (U.S. Publication 2003/0108338 A1) in view of Baldwin et al, (U.S. Patent 6,975,363 B1). The applicants respectfully traverse.

The Examiner's proposed combination of Nonomura and Baldwin does not disclose or suggest all of the limitations of claim 1. For example, the proposed combination does not disclose "wherein ... the sub-audio system time clock counter continuously increases even if a user inputs a reverse play or forward play command," as recited in claim 1. The Examiner asserts that this limitation is inherent in the disclosure of Baldwin. The Examiner asserts that Baldwin discloses that the video and the audio may be completely separate. Thus, according to the Examiner, when a forward play command is input to advance the video data, the audio clock would be unaffected and would continue to increase, since the audio data is independent of the video data.

The Examiner's argument of inherency relies upon this disclosure of the video data being independent of the audio data, a premise which is not supported by claim 1 as presently presented. Baldwin does disclose that the video data may come from one source and the audio data from another source (col. 7, lines 63-66). However, a person of ordinary skill in the art would understand that the sub-audio data corresponds to the mainstream data (hence the term "sub-audio data".) The premise upon which the Examiner bases the argument of inherency is thus inapplicable. Baldwin does not address the operation of the audio clock and the video clock with respect to forward and reverse play commands. Thus, in the context of related (or corresponding) sub-audio and mainstream packet data, a person of ordinary skill in the art would expect that the sub-audio system time clock would reverse if a forward play command were input. Baldwin presents no disclosure as to a reason to expect otherwise, and the Examiner has not presented any additional evidence as to a reason why the person of ordinary skill in the art would modify the disclosures of the Nonomura and Baldwin references in the manner proposed.

In order to show inherency, the Examiner must show "that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized

by persons of ordinary skill. ... The mere fact that a certain thing may result from a given set of circumstances is not sufficient." See MPEP § 2112(IV). In this case, the disclosure of Baldwin is insufficient to show that the sub-audio time clock necessarily continues to increase. It is just as likely that the audio clock would be adjusted in correspondence with the command, since the person of ordinary skill in the art would understand that the sub-audio packet data corresponds to the mainstream packet data. Since Baldwin does not necessarily disclose that the sub-audio system time clock continues to increase even when a forward play or reverse play command is input, the Examiner cannot rely upon an inherency argument.

Since the Examiner concedes that Nonomura does not disclose "wherein ... the sub-audio system time clock counter continuously increases even if a user inputs a reverse play or forward play command," and the disclosure of Baldwin does not remedy these deficiencies for the reasons given above, the combination of Nonomura and Baldwin does not disclose or suggest all of the limitations of claim 1, and the rejection of claim 1 should be withdrawn.

The rejection of claims 32 and 34 should be withdrawn for at least the reasons given above with respect to claim 1.

Claims 2-6 depend from claim 1. The rejection of claims 2-6 should be withdrawn for at least the reasons given above with respect to claim 1.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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Date: 10/21/09

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